UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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Ex parte JASON Y. BLAKELY, DENNIS D. KING,
AND RICHARD J. REDPATH

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Appeal 2007-3928
Application 09/577,722
Technology Center 2100

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Decided: March 31, 2008

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Before KENNETH W. HAIRSTON, LANCE LEONARD BARRY
and ALLEN R. MACDONALD, *Administrative Patent Judges*.

HAIRSTON, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134 from a final rejection of

claims 1 to 12. We have jurisdiction under 35 U.S.C. § 6(b).

We will sustain all of the rejections of record.

Appellants have invented a method of and a system for machine translation of text in a single discrete document to produce a translated text with mixed languages (Figure 2; Specification 2, 5, and 8).

Claim 1 is representative of the claims on appeal, and it reads as follows:

1. A method of determining a target language for automatic programmatic translation of text in a first language, comprising the steps of:

creating text in the first language, the text being in a single discreet [sic] document;

using an HTML 'lang' attribute to set at least one target language for a portion of the text which is different from the first language; and,

automatically programmatically translating the portion having the first language into said at least one target language with said 'lang' attribute as a key for machine translation in order to produce a mixed translation[1] of the text.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Grefenstette	US 6,396,951 B1	May 28, 2002 (filed Dec. 23, 1998)
Lakritz	US 6,623,529 B1	Sep. 23, 2003 (filed Feb. 23, 1998)

The Examiner rejected claims 1, 3, 4, 6, 7, and 9 under 35 U.S.C.

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[1] The output is a mixed language translation, as opposed to a mixed translation.

§ 102(e) based upon the teachings of Lakritz[2].

The Examiner rejected claims 2, 5, and 8 under 35 U.S.C. § 103(a) based upon the teachings of Lakritz and Grefenstette.

The Examiner rejected claims 10 to 12 under 35 U.S.C. § 103(a) based upon the teachings of Lakritz.

ISSUE

Appellants and the Examiner disagree as to whether or not the translation system described by Lakritz translates a portion of a single discrete document (App. Br. 7 and 8; Ans. 3, 4, and 7). The Appellants and the Examiner also disagree as to whether or not the translation system described by Lakritz produces a mixed translation of text from a single discrete document (Reply Br. 2, 3, 6, and 7; Ans. 3, 4, 7, and 8). Thus, the issues before us are: (1) does the Lakritz system translate a portion of a single discrete document; and (2) does the Lakritz system produce a mixed translation of text from a single discrete document.

FINDINGS OF FACT

1. As indicated *supra*, Appellants describe and claim a method of and a system for automatic programmatic translation of text in a first language in a single discrete document to a mixed language translation of the text.

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[2] In a prior decision dated September 28, 2006, the Board found that the reference to Lakritz described all of the method steps of determining a mixed translation of text.

2. Lakritz describes a method of and system for determining a target language for automatic programmatic translation of text in a first language (Figure 5; Abstract; col. 2, ll. 5 to 43).

3. Lakritz indicates that the text in the first language is on a single discrete document (Abstract; col. 2, l. 39; col. 5, ll. 41 to 43; col. 7, ll. 3 to 33; col. 13, ll. 55 and 56; col. 26, ll. 31 to 35; col. 28, ll. 8 to 10; col. 32, ll. 42 to 44; col. 34, ll. 26 to 29; col. 36, ll. 36 to 38).

4. Lakritz uses an HTML 'lang' attribute (i.e., special tags) to set at least one target language for a portion of the text which is different from the first language (col. 5, ll. 41 to 49; col. 7, ll. 27 to 48; col. 13, ll. 55 and 56; col. 26, ll. 15 to 67; col. 27, ll. 16 to 21; col. 31, ll. 8 to 23; col. 36, ll. 22 to 38).

5. Lakritz automatically programmatically translates the portion having the first language into the at least one target language with said 'lang' attribute as a key for machine translation in order to produce a translation of the text in the target language (col. 2, ll. 38 to 43; col. 7, ll. 3 to 11; col. 26, ll. 31 to 40; col. 36, ll. 22 to 38).

6. Grefenstette was cited by the Examiner for a teaching of using "Language Guessing to determine the first language in translating documents from a first language to a second language or a target language (fig. 3A, col. 6, ll. 18-41)" (Ans. 5).

PRINCIPLES OF LAW

Anticipation is established when a single prior art reference discloses expressly or under the principles of inherency each and every limitation of

the claimed invention. *Atlas Powder Co. v. IRECO, Inc.*, 190 F.3d 1342, 1347 (Fed. Cir. 1999); *In re Paulsen*, 30 F.3d 1475, 1478-79 (Fed. Cir. 1994).

The Examiner bears the initial burden of presenting a prima facie case of obviousness. *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992). The Examiner's articulated reasoning in the rejection must possess a rational underpinning to support the legal conclusion of obviousness. *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006).

ANALYSIS

As indicated *supra* in finding of fact 3, Lakritz describes text in a first language on a single discrete document that undergoes automatic programmatic translation. Thus, Appellants' argument that Lakritz fails to describe text to be translated on a single discrete document is without merit.

As noted in findings of facts 4 and 5, the HTML 'lang' attribute (i.e., special tag) placed on a portion of the text in the document described by Lakritz translates the portion of the text as well as the remainder of the text in the document into the target language. In other words, we agree with Appellants that Lakritz fails to produce a "mixed" translation of the text in the document as set forth in all of the claims on appeal.

In summary, we agree with the Appellants that the anticipation rejection is improper because Lakritz fails to describe all of the method steps and system structure set forth in claims 1, 3, 4, 6, 7, and 9 on appeal.

Turning to the obviousness rejections of claims 2, 5, 8, and 10 to 12, we find that the teachings of Grefenstette do not cure the noted shortcoming in the teachings of Lakritz.

CONCLUSIONS OF LAW

Anticipation has not been established by the Examiner because Lakritz does not disclose each and every limitation of the claimed invention set forth in claims 1, 3, 4, 6, 7, and 9.

Obviousness has not been established by the Examiner because the applied references whether considered alone or in combination fail to teach or suggest the claimed invention set forth in claims 2, 5, 8, and 10 to 12.

ORDER

The anticipation rejection is reversed, and the obviousness rejections are reversed.

REVERSED

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